

201 KAR 36:055. Administrative subpoena.

RELATES TO: KRS 335.515(2)

STATUTORY AUTHORITY: KRS 335.515(2), (3)

NECESSITY, FUNCTION, AND CONFORMITY: KRS 335.515(3) authorizes the Board of Licensed Professional Counselors to promulgate administrative regulations necessary for the proper performance of its duties. KRS 335.515(2) authorizes the board to issue subpoenas to assist in the investigation of a complaint or a suspected violation of KRS 335.500 to KRS 335.599. This administrative regulation establishes procedures for issuing an administrative subpoena.

Section 1. The Board of Licensed Professional Counselors may issue an administrative subpoena to investigate a complaint or suspected violation of KRS 335.500 to KRS 335.599 or 201 KAR Chapter 36.

Section 2. Administrative Subpoenas. (1) The board shall issue a subpoena in accordance with KRS 335.515(2) to require the production of books, papers, documents, or other evidence at a specified time and place.

(2) If information requested by the board is encrypted, the respondent shall:

(a) Provide the information in a readable format; and

(b) Provide proof acceptable to the board that the requested information has been translated to a readable format without error or omission.

(3) A person or entity served with a subpoena in accordance with subsection (1) of this section shall not intentionally destroy, alter, or falsify documents requested by the board.

Section 3. Noncompliance. (1) If a person fails without good cause to produce requested documents in accordance with Section 2(1) of this administrative regulation, the board may apply to the circuit court of the county in which compliance is sought for an appropriate order to compel compliance with the provisions of the subpoena.

(2) If a person served with a subpoena issued pursuant to Section 2(1) of this administrative regulation believes that the subpoena seeks to compel the production of documents that are protected, privileged, or not properly the subject of an administrative subpoena, the individual may, prior to the date designated for the production of the documents, apply to the circuit court of the county in which compliance is sought for an appropriate protective order limiting the scope of the subpoena or quashing it entirely. (43 Ky.R. 838; eff. 3-31-2017.)